

Application No. 10/799,094
Amendment AF dated OCTOBER 10, 2008
Reply to Final Office Action dated June 11, 2008

Amendments to the Drawings

The attached sheets of drawings replace the original drawing sheets. These sheets of drawings have been formalized without amendments.

Attachment: Five (5) Replacement Drawing Sheets

REMARKS

Applicants have carefully reviewed the final office action of June 11, 2008, in which claims 1-64 are pending and have been rejected. Applicants request reconsideration in light of the above amendments and following remarks.

Claim Objections

Claims 24, 24, 28, 30, 35, 46, 48, 53, 61, 60 and 64 were objected to because of certain informalities. Claims 24, 28, 35, 48, 53 and 27 have been amended as suggested.

With regard to claims 30 and 46, which pertain to marking band that is non-circumferentially conducting, applicants believe these claims meet the requirements of 35 USC 112. As MPEP 2173.02 says "definiteness of claim language must be analyzed, not in a vacuum, but in light of the content of the particular application disclosure." Paragraph 41 of the application has published discusses what is meant by circumferential conduction. The opposite, non-circumferential conducting, is sufficiently definite in light of this teaching. The remaining two claims, claims 60 and 61, are also believed to meet the requirements of 35 USC 112. MPEP 2173.02 also states that definiteness of claim language must be analyzed in light of the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made. Comparing the radiopacity of a portion of a device with that of stainless steel and determining whether material is substantially non-ferromagnetic, paramagnetic or superparamagnetic are skills possessed by one possessing the ordinary level of skill in the pertinent art. Applicants thus submit that all claims now comply with 35 USC 112 and request that the claim objections be withdrawn. As the amendments made were amendment complying with certain requirements of form expressly set forth in the office action, Applicants submit that the amendments are proper after final amendments under 37 CFR 1.116.

Claim Rejections

Claims 1-64 were variously rejected under 35 USC 103(a) as being unpatentable over Griffin et al., US publication number 2004/0193140 (hereinafter "Griffin"). Ten separate rejections were made over various of claims 1-64 with Griffin as the primary reference. Griffin,

which published September 30, 2004 (after the March 12, 2004 filing date of the present application), is available as a reference only under one or more of subsections (e), (f), and (g) of section 102. Both Griffin and the present application were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person and therefore, under 35 USC 103(c), Griffin is not available as prior art under 35 USC 103. As can be seen in the patent assignment database, the present inventors assigned their interest Scimed Life Systems, Inc. at reel 014716, frame 0109, which name was subsequently changed to Boston Scientific Scimed, Inc. at reel 018505, frame 0868. Likewise, the inventors of the Griffin application assigned their interest to Scimed Life Systems, Inc. at reel 013916, frame 0233, which name was subsequently changed to Boston Scientific Scimed, Inc. at reel 018505, frame 0868. The obviousness rejection therefore cannot be properly maintained and applicants therefore submit that claims 1-64 are in condition for allowance.


Reexamination and reconsideration are respectfully requested. It is respectfully submitted that the claims are now in condition for allowance, issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,
LIXIAO WANG et al.

By their Attorney,

Date: _____

10-10-08



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